



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,784	05/25/2006	Sabine Lundgaard	GRP-0157	8823
23413 7590 10/30/2009 CANTOR COLBURN, LLP 20 Church Street 22nd Floor Hartford, CT 06103				
EXAMINER				
MEDWAY, SCOTT J				
ART UNIT		PAPER NUMBER		
3763				
NOTIFICATION DATE		DELIVERY MODE		
10/30/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

Office Action Summary

Application No.

10/580,784

Applicant(s)

LUNDGAARD ET AL.

Examiner

SCOTT MEDWAY

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5506)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

This is the second Office Action based on the 10/580784 application filed 05/25/2006. Examiner acknowledges the reply filed 05/25/2006.

Claims 1-32 are currently pending and are considered below. Claim 1 has been amended.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. **Claims 1-5, 7, 9, 10, 17-24, 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. 1,032,436) in view of Beeman et al (U.S. Pat. 6,438,802).**

Regarding claim 1, Smith discloses a device capable of securing a line, comprising: a line retaining part (19) and a base part (2), the line retaining part comprising at least one groove for accommodating a line, the groove being open and configured to receive the line via a longitudinal opening defined by the retaining part; the base part comprising fixing means (e.g. a clamp); wherein the line retaining part and base part are provided with complementary locking means (12) for providing a connection between the line retaining part and the base part; and wherein the longitudinal opening is configured to remain open while the line is releasably retained in the groove (Figs. 1-5, especially Fig. 3, show the line retaining part having an open portion is configured to remain open while the line is retained in the groove, the open portion being part of the

longitudinal opening. It is noted that Smith does not disclose flexible parts protruding in the groove. Beeman discloses a locking mechanism for fastening a cord or a tube, comprising a plurality of flexible parts (10) protruding into the groove. It would have been obvious for one of ordinary skill in the art at the time of the invention to consider installing flexible retaining parts such as taught by Beeman, so as to apply the known technique of improving the holding capability of a line retaining part with the intended result of allowing a line to be inserted and fixed in place without falling out or becoming loosened from the line retaining part. Such a holding capability using flexible parts is well-known and would have been considered an obvious improvement to those with working knowledge in the art.

Regarding claims 2-5 and 7, Beeman discloses that the flexible parts are placed lateral of the groove, being designed as flexible blades protruding into the groove and located at an angle between 10 degrees and 80 degrees in relation to the axis of the groove. Additionally, as per claim 7, the retaining means of Beeman are located on both sides of the groove. It would have been obvious to one of ordinary skill in the art to adapt these characteristics of Beeman into the line securing device of Smith, since flexible blades of this configuration would have been considered obvious so as to allow a tube to be inserted into a line retaining part in one direction and be held in place if attempts were made to remove the tube in an opposite direction from its insertion direction. The blades of Beeman are disclosed to be configured in this way so as to allow for such an obvious improvement (Beeman, col. 8, lines 15-25).

Regarding claims 6 and 8, it is noted that Smith in view of Beeman does not disclose the flexible retaining means placed at only one side of the groove, and that the groove is only one groove. Instead Beeman discloses the flexible retaining means placed around the groove and discloses more than one groove. However, it would have been obvious to consider reducing the amount of flexible retaining means or grooves so as to reduce the cost of the device while still allowing the device to perform its intended function. In addition, it has been held that the omission of an element or part where the remaining elements or parts perform the same functions as before, involves only routine skill in the art. *In re Karlson*, 136 USPQ 184).

Regarding claim 9, Smith shows in Fig. 1 that two grooves are made for accommodating a line each and they are placed essentially in parallel.

Regarding claim 10, it is noted that Smith does not disclose the material the retaining part is made of. It would have been obvious to choose a polymeric material, since polymeric materials were well known at the time, and merely choosing the preferred material on the basis of its suitability for the intended use is considered within the level of ordinary skill in the art. *In re Leshin*, 125 USPQ 416.

Regarding claims 17-24 and 26, Smith discloses, as shown in Figs. 2 -5, the fixing means of the base part comprising two opposing jaw parts forced together by a hinge and a spring means, where the spring means is a flexible spring part connected between the jaw parts and acting on either of the jaw parts. The jaw parts are shown in the Figures to be designed as a curved hook element, where the hook element is formed at the end of a flexible elongated part of the base. The fixing means is fully

capable of being utilized to clip onto structural parts, the clipping being aided by the spring-loaded means previously described. The fixing means comprises mechanical means such as a jaw clamping mechanism for securing the base part near the patient. It is noted that Smith does not disclose the base part being formed of polymeric material. It would have been obvious to choose a polymeric material, since polymeric materials were well known at the time, and merely choosing the preferred material on the basis of its suitability for the intended use is considered within the level of ordinary skill in the art. *In re Leshin*, 125 USPQ 416.

3. **Claims 1, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choksi et al (U.S. Pat. 4,820,274, hereinafter "Choksi") in view of Beeman et al (U.S. Pat. 6,438,802 B1, hereinafter "Beeman").**

Regarding claim 1, Choksi discloses a device for securing a line, specifically a medical line, comprising a line retaining part (20) and a base part (40), where the line retaining part comprises at least one groove (e.g. 24,26) for accommodating a line, and where the base part comprises fixing means (e.g. 42,43). Choksi additionally a locking means (e.g. 33) for providing a connection between the line retaining part and the base retaining part. Choksi shows, as in Fig. 7, that a portion of the longitudinal opening is capable of having a remaining portion open while the line is retained in the groove, since the tube is shown to have a lower height than the height of a wall of the line retaining part, and the open portion is the empty space between the top of the tube and the top of the wall of the line retaining part. It is noted that Choksi does not disclose at

least one groove designed with flexible retaining means comprising a plurality of flexible parts protruding into the groove. Beeman discloses a locking mechanism for fastening a cord or a tube, comprising a plurality of flexible parts (10) protruding into the groove.. It would have been obvious for one of ordinary skill in the art at the time of the invention to consider installing flexible retaining parts such as taught by Beeman, so as to apply the known technique of improving the holding capability of a line retaining part with the intended result of allowing a line to be inserted and fixed in place without falling out or becoming loosened from the line retaining part. Such a holding capability using flexible parts is well-known and would have been considered an obvious improvement to those with working knowledge in the art.

Regarding claims 31 and 32, Choksi discloses a means for withholding a line in said groove which comprises a lid part (32) that is fully capable to be connected to the line retaining part by a hinge.

4. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. 1,032,436) in view of Beeman et al (U.S. Pat. 6,438,802), further in view of Goebel et al (U.S. Pat. 6,428,514 B1, hereinafter "Goebel").

Regarding claims 11-14, it is noted that Smith in view of Beeman does not disclose the complementary locking means disclosed by Smith to be a snap-locking means comprising a tap having an annual part and a complementary annual groove or vice-versa, where the locking means is a swivel joint. Goebel discloses a device having a base part (11) and a line-retaining part (e.g. 10) where the line-retaining part is

connected to the base part with a snap-in mechanism (38, 39, 43) which is a tap having an annular part a complementary annular groove. The line retaining part and base part are designed as a swivel joint, allowing the line retaining part to rotate and to be adjusted in relation to the base part. Since Smith suggests that the line-retaining part may be rotated in relation to the base part (col. 2, line 108), it would have been obvious to one of ordinary skill in the art at the time of the invention to consider a snap-in locking mechanism of Goebel as a substitute for the mechanism of Smith, since merely replacing the mechanism of Smith with that of Goebel would allow the line-retaining part of Smith to be easily detached from its base part, and using a swivel joint as taught by Goebel would allow a greater degree of adjustment than using the rotational joint of Smith alone.

5. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. 1,032,436) in view of Beeman et al (U.S. Pat. 6,438,802), further in view of Goebel et al (U.S. Pat. 6,428,514 B1), still further in view of Rebeyrolle et al (U.S. Pat. 5,318,192, hereinafter "Rebeyrolle").

Regarding claims 15 and 16, the combination of Smith in view of Beeman, further in view of Goebel does not specifically disclose limit stops or interacting means such as toothed rings or cogging to allow relative movement of the line retaining part with a base part within a limited range. Rebeyrolle discloses an assembly of a cap portion and a base portion, where the cap and base portions are connected with a snap-in mechanism having teeth (4,6,7,8,9) allowing for relative movement and a limited

angular range of movement. It would have been obvious for one of ordinary skill in the art at the time of the invention to merely fashion cogs of Rebeyrolle onto a snap-in mechanism of Goebel, so as to allow a selective rotation of the line-retaining part, where the selective rotation improves the accuracy and control of the rotation, and further implementing a stop so as to inhibit free motion when the line or base is accidentally rotated with respect to the other.

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. 1,032,436) in view of Beeman et al (U.S. Pat. 6,438,802 B1), further in view of Bierman (U.S. Pat. 4,711,636).

It is noted that the combination of Smith in view of Beeman discloses that the fixing means comprises adhesive means. Bierman discloses a tube connector which may be secured to the patient using adhesive means (col. 2, lines 27-29). It would have been obvious for one of ordinary skill in the art to consider adapting the adhesive pad of Bierman for use on the device of Smith in view of Beeman, so as to allow the line-securing device to be attached and fixed to the patient to allow the patient to ambulate or be moved while maintaining the line-securing device in place to secure a line.

7. Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. 1,032,436) in view of Beeman et al (U.S. Pat. 6,438,802 B1), further in view of Mawhirt et al (U.S. Pat. 4,944,924, hereinafter "Mawhirt").

Regarding claims 27-30, it is noted that Smith in view of Beeman does not disclose the line-retaining part comprising two side parts where the parts are complementary and designed as dovetail joints to form locking means. Mawhirt discloses a device for retaining a tube, comprising two complementary side parts (80,86,88,90 and 58,60,62,64,66) where the side parts form a dovetail joint and are designed as complementary locking means so as to allow the retaining device to be connected with a similar or identical retaining device. It would have been obvious for one of ordinary skill in the art the time of the invention to consider implementing the complimentary dovetail joint side parts of Mawhirt into the device of Smith in view of Beeman, so as to allow for a variety of lines or tubes to be retained at the same time or to more effectively stack, store or easily transport multiple retaining devices in one container by selectively interlocking them together.

Response to Arguments

8. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Regarding Applicant's argument that the teeth of Beeman are not flexible, Examiner disagrees. Nothing in Beeman suggests the teeth are specifically inflexible, and an element which is not disclosed specifically to be inflexible is interpreted by Examiner to have at least some degree of flexibility. Since the device of Beeman is made from plastic, which is known to have flexibility, and since the device is molded from a single body, the teeth are assumed to have flexibility as well.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT MEDWAY whose telephone number is (571) 270-3656. The examiner can normally be reached on Monday through Friday, 7:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott J. Medway/
Examiner, AU 3763
10/22/2009

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763